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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

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6 MARTY FITZGERALD,

Case No. 3:17-cv-00278-MMD-CLB

7 Plaintiff,

ORDER

8 v.

9 LPN GREG MARTIN, *et al.*,

10 Defendants.

11 *Pro se* Plaintiff Marty Fitzgerald brings this civil rights action under 42 U.S.C. §
12 1983. Before the Court is the Report and Recommendation (“R&R”) of United States
13 Magistrate Judge Carla L. Baldwin (ECF No. 154), recommending that (1) Defendants’
14 motion for summary judgment be granted, (2) Fitzgerald’s motions for preliminary
15 injunction and for substitution of parties be denied as moot, and (3) Fitzgerald’s cross-
16 motion for summary judgment be denied as untimely.¹ Plaintiff had until June 16, 2022 to
17 file an objection. To date, no objection to the R&R has been filed. For this reason, and as
18 explained below, the Court adopts the R&R in full and will close this case.

19 The Court “may accept, reject, or modify, in whole or in part, the findings or
20 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party
21 fails to object to a magistrate judge’s recommendation, the Court is not required to
22 conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas*

23
24 ¹The Court notes that Judge Baldwin ordered Defendants not to file a response
25 to Fitzgerald’s cross-motion for summary judgment unless or until ordered by the court.
26 (ECF No. 150.) Fitzgerald filed an objection. (ECF No. 151.) In reviewing a magistrate
27 judge’s non-dispositive pretrial order, the magistrate’s factual determinations are
28 reviewed for clear error. See 28 U.S.C. § 636(b)(1)(A); see also Fed. R. Civ. P. 72(a).
The Court, having reviewed the objection and the record in this case, finds that Judge
Baldwin did not clearly err as the court has inherent authority and discretion to control its
own docket. See *Ready Transp., Inc. v. AAR Mfg., Inc.*, 627 F.3d 402, 404 (9th Cir.
2010). As such, Fitzgerald’s objection is overruled.

1 *v. Arn*, 474 U.S. 140, 149 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114,
2 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and
3 recommendations is required if, but *only* if, one or both parties file objections to the
4 findings and recommendations.”) (emphasis in original); Fed. R. Civ. P. 72, Advisory
5 Committee Notes (1983) (providing that the Court “need only satisfy itself that there is no
6 clear error on the face of the record in order to accept the recommendation.”).

7 Because there is no objection, the Court need not conduct *de novo* review, and is
8 satisfied Judge Baldwin did not clearly err. Here, Judge Baldwin recommends that
9 Defendants’ motion for summary judgment be granted because Fitzgerald has failed to
10 meet his burden and has not offered evidence to create an issue of fact as to whether
11 Defendants were deliberately indifferent to his medical needs. (ECF No. 154 at 14-15.)
12 Fitzgerald has also failed to offer evidence that any Defendants acted with an intent or
13 purpose to discriminate against him based on his membership in a protect class. (*Id.* at
14 15-16.) In light of these recommendations, Fitzgerald’s motions for preliminary injunction
15 and for substitution of parties should be denied as moot. (*Id.* at 16.) Moreover, Fitzgerald’s
16 cross-motion for summary judgment should be denied as it was filed after the dispositive
17 motion deadline. (*Id.*) The Court agrees with Judge Baldwin.² Having reviewed the R&R
18 and the record in this case, the Court will adopt the R&R in full.

19 It is therefore ordered that Judge Baldwin’s Report and Recommendation (ECF
20 No. 154) is accepted and adopted in full.

21 It is further ordered that Defendants’ motion for summary judgment (ECF No. 103)
22 is granted.

23 It is further ordered that Plaintiff Marty Fitzgerald’s motion for preliminary injunction
24 (ECF No. 128) is denied as moot.

25 It is further ordered that Fitzgerald’s motion for substitution of parties (ECF No.
26 131) is denied as moot.

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28 ²The Court further finds that Fitzgerlad’s motion should be denied as moot in light
of the Court agreeing that summary judgment be entered in Defendants’ favor.

1 It is further ordered that Fitzgerald's cross-motion for summary judgment (ECF No.
2 149) is denied as untimely.

3 It is further ordered that Fitzgerald's objection (ECF No. 151) to the May 10, 2022
4 order (ECF No. 150) is overruled.

5 The Clerk of Court is directed to enter judgment accordingly and to close this case.

6 DATED THIS 8th Day of July 2022.

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11 MIRANDA M. DU
12 CHIEF UNITED STATES DISTRICT JUDGE
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